

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3315 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MAHENDRABHAI SOMCHAND MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR NAVIN PAHWA for Petitioner

MR MR RAVAL AGP for Respondent No. 1

MR BT RAO for Respondent No. 3

SERVED BY RPAD - (R) for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 23/07/1999

ORAL JUDGEMENT

The petitioner herein is a detenu under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as 'the Act'). The order of detention has been made by the State Government under the powers conferred upon

it under sub-section (2) of section 3 of the Act on 5th April, 1999.

The only ground on which the impugned order of detention is challenged is, 'the representation made by the learned advocate against the impugned order of detention on 14th April, 1999 has not been attended to expeditiously, and has been considered and decided after an unduly long and unexplained delay'. It transpires that the representation made by the learned advocate was delivered in the concerned office on 16th April, 1999, and on 19th April, 1999, the para-wise comments of the State Government was called for. The same were received by the concerned office on 22nd April, 1999, and the representation was rejected on 6th May, 1999. The period between 22nd April, 1999 and 6th May, 1999, has not been explained. It is not even shown that the time taken by the Central Government in considering and deciding the said representation was reasonable. In view of the prevailing judicial pronouncements, such an unexplained delay in considering the representation made against the order of detention shall vitiate the continued detention of the petitioner.

In above view of the matter, the petition is allowed. The impugned order dated 5th April, 1999 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI